

REMARKS / ARGUMENTS

Claims 1-6, 9-13, 32-38, 41, 42, 44-48, 62, 69-72 and 74-76 are pending in the present application. Claims 1-6, 9-13 and 32-38 are withdrawn from consideration. Claims 39, 62 and 69 are independent and claim 43 has been canceled.

Claims 39, 41-46, 48, 62, 69-72 and 74-76 were rejected as being anticipated by Hundertmark et al (U.S. Patent No. 5,643,296). Claim 47 was rejected as being unpatentable over Hundertmark in view of Patterson et al (U.S. Patent No. 5,941,869).

Claims 39, 41-48, 62, 69-72 and 74-76 were provisionally rejected as being unpatentable over claims 19-24 of copending Application No. 10/421,979, claims 1-15 of copending Application No. 10/288,581, claims 46-49 of copending Application No. 10/288,559 and claims 1-11 of copending Application No. 10/288,582. This rejection is a provisional rejection because the conflicting claims have not in fact been patented. Applicant shall address this rejection upon allowance of a claim in the present application.

Discussion

Amended independent claim 39 is allowable over Hundertmark since Hundertmark does not disclose or suggest the step of “debulking the body lumen by rotating the tissue debulking device about a first axis with the tissue debulking device being exposed through the cutting window in the catheter, the debulking step being carried out by advancing the catheter in the body lumen to move the rotating tissue debulking device through material in the body lumen.” Nowhere does Hundertmark disclose or suggest advancing the catheter in the body lumen to move the rotating tissue debulking device through material in the body lumen. Hundertmark discloses a catheter which remains stationary within the vessel when removing material. To this end,

Hundertmark discloses a balloon which is inflated to hold the catheter in place and to force material into the window 142.

Applicant submits that it would not have been obvious to modify Hundertmark so that Hundertmark is moved through the blood vessel during debulking since Hundertmark requires inflation of the balloon to invaginate material into the window. If the balloon were not inflated to anchor the catheter Applicant submits that material would not enter the window thereby rendering Hundertmark inoperable.

Applicant submits that claim 39 is also allowable over Hundertmark since Hundertmark does not disclose or suggest “debulking the body lumen by rotating the tissue debulking device about a first axis with the tissue debulking device being exposed through the cutting window in the catheter.” Hundertmark does not expose the cutting element through the window and, in fact, Applicant submits that Hundertmark explicitly teaches away from exposing the cutting element. Hundertmark prevents exposure of the cutting element and specifically asserts that outwardly extending cutting blades are unwieldy and generally undesirable (col. 2, lines 6-7). Hundertmark specifically provides guidance structures to prevent exposure of the cutting element through the window and, as such, clearly teaches away from exposing the cutting element as claimed.

Independent claim 62 is allowable over Hundertmark for essentially the same reasons that claim 39 is allowable, namely, that Hundertmark does not disclose or suggest providing a catheter having a rotating cutter “movable between a stored position and an exposed position, at least part of the rotating cutter becoming exposed through the cutting window when moving to the exposed position” and that Hundertmark does not disclose or suggest “advancing the catheter in a distal direction to move the rotating cutter through occlusive material in the body lumen while the rotating means rotates the cutter.” Hundertmark arguably teaches away from exposing the cutter as explained above and also clearly does not teach advancing the catheter during cutting since the catheter of Hundertmark is anchored by the balloon during cutting.

Independent claim 69 is also allowable over Hundertmark for reasons similar to the arguments above concerning claims 39 and 62. Claim 69 recites "exposing the cutter by moving the cutter to the exposed position" which is not disclosed or suggested by Hundertmark as explained above. Claim 69 also recites "advancing the debulking catheter in a distal direction after the exposing step and during the rotating step, wherein the rotating cutter and the opening advance together so that material cut by the rotating cutter is directed through the opening and into the collection chamber distal to the rotating cutter as the catheter is advanced" which is also not disclosed or suggested by Hundertmark.


Dependent claims 41-46, 48, 70-72 and 74-76 are allowable since they depend from allowable independent claims 39, 62 and 69 and because they recite independently patentable features.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

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Jens E. Hoekendijk
Reg. No. 37,149

Jens E. Hoekendijk
P.O. Box 4787
Burlingame, CA 94011-4787
Tel.: 415-412-3322
Fax: 650-871-7688